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Claudio Miguel Suarez

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Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York, NY 10018

EXAMINER

HAND, MELANIE JO

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/517,331
Filing Date: December 09, 2004
Appellant(s): SUAREZ, CLAUDIO MIGUEL

William C. Gehris
For Appellant

EXAMINER'S ANSWER

This is in response to the reply brief filed January 16, 2009.

Responsive to the reply brief filed on January 16, 2009, a supplemental Examiner's Answer is set forth below:

(10) Response to Argument

Applicant's arguments filed January 16, 2009 have been fully considered but they are not persuasive. With respect to arguments regarding claims 11 and 24: Applicant argues that the present specification defines the phrases "predominantly hydrophobic" and "predominantly hydrophilic" sufficiently so as to define the phrases and necessitate reading of the claims in light of those definitions. Examiner disagrees. Applicant states that hydrophilicity and hydrophobicity are discussed in terms of a Basket Test. However, the only clear statement made linking said Basket Test and hydrophobicity is the following:

If the hydrophobicity of the hydrophobic top layer is relatively low, e.g. with a Basket Test (ASTM D-1117-5.2) of 25 seconds, the zones where the fibers have not been compressed, namely at both sides of every longitudinal channel, remain sufficiently dry during the period of the article's use. (Specification filed 12/9/04, Page 6, ¶11)

There is no such clear statement regarding Basket Test time and hydrophilicity. This statement not only relies on more relative terms, i.e. "relatively low" to define a relative term, i.e. "predominantly hydrophobic", the statement only provides one example of a "relatively low" Basket Test time. This does not set forth what the time is low relative to, nor does it clearly describe any ranges or upper or lower limits for Basket Test times that are regarded by the applicant to define what is hydrophilic or hydrophobic, let alone adequately describe or define "predominantly hydrophilic" or "predominantly hydrophobic". Thus the claim, as is consistent with Office procedure, was and is given its broadest reasonable interpretation. Interpreting the

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claims in this manner, Roxendal anticipates claims 11 and 24, i.e. the hydrophilic and hydrophobic zones and hydrophilicity gradient disclosed by Roxendal anticipate the claim limitations as they are interpreted.

With respect to arguments regarding claim 12: Applicant appears to be simply reiterating portions of the examiner's answer and the disclosure of Roxendal and from there concludes that Roxendal does not disclose that the plurality of peaks define zones of superficial liquid distribution to the channels. However, the very disclosure by Roxendal that fluid flows from the top surface of the layer which first contacts the fluid to the channels is in and of itself evidence that there is superficial guiding of fluid to the channels, i.e. the guidance of fluid occurs on the surface of the layer. As applicant has not clearly stated why applicant does not believe the Roxendal disclosure meets this limitation, the argument is considered fully addressed by the examiner to the extent possible.

With respect to arguments regarding claims 15-17: Applicant appears solely to be refuting the previous examiner's assertion that the feature of segments, points or sectors of union or density in peaks relative to joining regions do not improve capacity of absorption and transfer of liquids retained in the core. If this is correct, the underlined portion of applicant's remarks on page 3 of the Reply Brief, are irrelevant and insufficient to overcome the rejection as they do not address any of the features the previous examiner discusses as not being present in the claims. There appear to be no other arguments regarding claims 15-17, thus the arguments against these claims are insufficient to overcome the rejection.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Melanie J Hand/

Examiner, Art Unit 3761

Conferees:

Tatyana Zalukaeva

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761

/Angela D Sykes/

Supervisory Patent Examiner, Art Unit 3762

Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

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**A Technology Center Director or designee has approved this supplemental
examiner's answer by signing below:**

/DONALD HAJEC/

Director, Technology Center 3700